

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

HELEN POLITZ

Plaintiff

v.

Civil Action No.: 1:08cv18-LTS-RHW

**NATIONWIDE MUTUAL FIRE
INSURANCE COMPANY, U.S. SMALL
BUSINESS ADMINISTRATION, AND
JOHN DOES 1 THROUGH 10**

Defendants

**NATIONWIDE MUTUAL FIRE INSURANCE COMPANY’S RESPONSE IN
OPPOSITION TO PLAINTIFF’S MOTION FOR LEAVE TO FILE SUR-REBUTTAL
[DKT. 424]**

COMES NOW, Defendant Nationwide Mutual Fire Insurance Company (“Nationwide”), by and through counsel, and hereby files this Response In Opposition To Plaintiff’s Motion For Leave to File Sur-rebuttal to Nationwide’s [420] Reply in Support of Second Supplemental Motion for Summary Judgment (“Pl.’s Mot.”) (Dkt. 424). In response to Plaintiff’s Motion, Nationwide states as follows:

1. In her Motion seeking permission to file a sur-rebuttal memorandum regarding Nationwide’s pending Second Supplemental Motion for Summary Judgment, Plaintiff states a sur-rebuttal is necessary, “on the narrow issue regarding Nationwide referencing policy conditions which the Nationwide policy does not require.” (Pl.’s Mot. at 1.) It is unclear how further briefing on these issues could have any bearing on the issues already raised by the pending supplemental motion for summary judgment. As such, Plaintiff has failed to demonstrate any legitimate need for sur-rebuttal briefing.

2. Plaintiff’s request for sur-rebuttal briefing in this instance continues a pattern of similar requests for sur-rebuttal briefing on other motions filed in this case. (See June 17, 2009 Pl.’s Mot. for Leave to file Sur-Rebuttal to Nationwide’s [360] Def.’s Resp. in Opp. to Pl.’s Mot.

for Review of Magistrate Judge's Order (Dkt. 364); June 18, 2009 Pl.'s Mot. for Leave to File Sur-Rebuttal to [358] Nationwide's Reply in Supp. of Mot. for Clarification Regarding the Courts Order on Mot. in Limine No. 2 to Exclude Test., Evidence and Argument Regarding Ins. Claims Other than Pl.'s Claims Against Nationwide (Dkt. 369); Aug. 12, 2009 Pl.'s Mot. for Leave to File Sur-Rebuttal to Nationwide's [410] Reply to [400] Resp to [392] Mot. to Strike [381] Notice of Service of Disclosure (Dkt. 411).)

WHEREFORE premises considered, Nationwide respectfully requests that the Court deny Plaintiff's Motion For Leave to File Sur-rebuttal to Defendant's Second Supplemental Motion for Summary Judgment.

THIS, the 21st day of September, 2009.

Respectfully submitted,

NATIONWIDE MUTUAL FIRE
INSURANCE COMPANY, Defendant

By Its Attorneys,
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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This, the 21st day of September, 2009.

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